

Message Text

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ACTION L-03

INFO OCT-01 IO-14 ISO-00 AF-10 ARA-16 EA-11 EUR-25 NEA-10

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TAGS: UNGA, PINS

SUBJECT: UNGA -- LEGAL COMITE -- PROTECTION OF DIPLOMATS

1. DRAFTING COMITE MET MORNING NOV 3 AND CONSIDERED ARTICLES
2 AND 12 AND THE PREAMBLE.

2. ON ART 2, LITTLE PROGRESS FROM STATE OF AFFAIRS REPORTED
PARA 5 OF USUN 4433. SOVIETS CONTINUED TO INSIST ON THEIR
AMENDMENT ON "DIGNITY", SUPPORTED BY MALI AND UAE. US, UK,
AND SWEDEN CONTINUED TO OPPOSE. SOVS WERE HOWEVER SOMEWHAT
LESS DOGMATIC IN THAT THEY INSISTED LESS ON THEIR FORM OF
WORDS AND SPOKE MORE OF NEED TO INCLUDE MENTION OF "DIGNITY" IN
ART 2. IN RESPONSE TO OBJECTIONS THAT WEOS UNWILLING TO APPLY
MACHINERY OF CONVENTION TO OFFENSES AGAINST DIGNITY, UAE REP
PROPOSED NEW ARTICLE, TO WHICH REST OF CONVENTION WOULD NOT
REFER, AS FOLLOWS: "ANY ATTACK ON THE DIGNITY OF AN INTERNATION-
ALLY PROTECTED PERSON SHALL BE MADE BY EACH STATE PUNISHABLE
BY APPROPRIATE PENALTIES WHICH TAKE INTO ACCOUNT ITS GRAVE
NATURE." ON OTHER HAND, US ARGUED THAT SPANISH SUGGESTION TO
ADD FOLLOWING TWO PARAS TO PREAMBLE WOULD TAKE CARE OF ALL OF
SOVIET'S CONCERNS:

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"REAFFIRMING THE RULES OF INTERNATIONAL LAW RELATING TO RESPECT FOR

AND GUARANTY OF THE LIFE, PERSON, LIBERTY AND DIGNITY OF
DIPLOMATIC AGENTS AND OTHER INTERNATIONALLY PROTECTED PERSONS,

"DECLARING THAT THE PRESENT CONVENTION WILL NOT AFFECT IN ANY
WAY ANY OTHER RULE OF INTERNATIONAL LAW THAT MAY BE APPLICABLE
IN THESE CASES."

NO DECISION TAKEN AND MATTER PUT OFF UNTIL MONDAY, NOV 5.

COMMENT: US COMPROMISE PROPOSAL TRANSMITTED PARA 5 OF USUN 4409
STILL VERY MUCH IN PLAY AS POSSIBLE SOLUTION. SOVS SAY THEY HAVE
HAD INSUFFICIENT TIME TO CONSIDER IT AND TO GET INSTRUCTIONS
AND HOPE TO HAVE ANSWER NOV 5. IN ADDITION, SOVS WERE WAITING TO
SEE OUTCOME OF ART 12 IN DRAFTING COMITE BEFORE AGREEING ON ART 2
COMPROMISE. DELOFF SAW NO POINT IN SURFACING TEXT IN DRAFTING
COMITE ABSENT CLEAR INDICATION THAT IT WOULD BRING SOLUTION.
HOWEVER, SECRETARIAT AGREED TO PROVIDE US WITH UNOFFICIAL
TRANSLATION INTO ALL WORKING LANGUAGES SO THAT WE CAN MOVE QUICKLY
ON NOV 5 IF IT BECOMES APPROPRIATE. END COMMENT.

3. DRAFTING COMITE NEXT CONSIDERED US PROPOSALS FOR ART 12
(TRANSMITTED PARA 6 OF USUN 4433). FIRST SUGGESTION SUPPORTED
BY JAPAN, SWEDEN, MEXICO, UK, TUNISIA, FRG AND COLUMBIA. IT
OPPOSED BY FRANCE, USSR, BULGARIA, AND MALI. INDIA AND KENYA SAID
THEY NOT IN FAVOR BUT COULD ACCEPT. UAE REP SAID HE WAS FLEXIBLE.
IN VIEW OF MAJORITY SENTIMENT IN FAVOR OF CHANGE, US REP CONTINUED
TO PRESS FOR CHANGE AND APPEALED TO THOSE WHO INTENDED IN
ANY EVENT TO MAKE RESERVATION UNDER PARA 2 OF ART 12 NOT TO
PREVENT THOSE WHO INTENDED TO ACCEPT ARTICLE FROM IMPROVING IT.
WITH REGARD TO SECOND US SUGGESTED CHANGE, DESPITE US REQUEST FOR
MORE VIEWS, ONLY SWEDEN, JAPAN AND UK SUPPORTED, WHILE FRANCE,
TUNISIA AND USSR OPPOSED. US REP THEREFORE ANNOUNCED THAT IN
SPIRIT OF PROMOTING COMPROMISE AND SPEEDING WORK US WOULD
WITHDRAW THIS SUGGESTION. COMMENT: WHILE FRENCH REP INFORMED
US REP THAT HE HAD RECEIVED INSTRUCTIONS THAT MORNING TO OPPOSE
ANY CHANGES FROM ALTERNATE B LANGUAGE, WE THINK IT POSSIBLE
THAT SOVS WILL LET FIRST SUGGESTION GO THROUGH NOW THAT SECOND HAS
BEEN WITHDRAWN. IN ANY EVENT, AT END OF MEETING SOVS PROMISED
TO RECONSIDER, AND US REP POINTED OUT THAT IF WE WENT SO FAR
AS TO LET WORD "DIGNITY" APPEAR IN ART 2, SOVS SHOULD ALLOW US
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THE MINOR DRAFTING CHANGE IN ARTICLE 12, WHICH WOULD NOT AFFECT
THEM IN ANY EVENT. END COMMENT.

4. DRAFTING COMITE THEN CONSIDERED PREAMBLE (TRANSMITTED
USUN 4221). FOLLOWING CHANGES ADOPTED: PARA 1 -- INSERT "THE
MAINTENANCE OF INTERNATIONAL PEACE," BEFORE "THE PROMOTION OF
FRIENDLY RELATIONS"; PARA 4 -- REPLACE WORD "REALIZING" WITH
WORD "CONVINCED" AND REPLACE WORD "PROVIDE" WITH WORD "ADOPT".

AT US SUGGESTION, NO DECISION TAKEN ON TWO PROPOSED ADDITIONAL PARAS BY SPAIN (CONTAINED PARA 2 OF THIS TEL) PENDING RESOLUTIONS OF ISSUES IN CONTEXT OF ART 2. THIS TOO WILL BE DECIDED NOV 5.

5. THUS, ONLY OUTSTANDING ISSUES FOR DRAFTING COMITE AT THIS STAGE ARE SOV AMENDMENTS TO ART 2 AND US SUGGESTION FOR ART 12. NOV 5 SECRETARIAT WILL PROVIDE COMPOSITE TEXT OF ALL ARTICLES ADOPTED BY DRAFTING COMITE, AND WITH SOME LUCK WE HOPE DEAL CAN BE SWUNG ON THESE REMAINING ISSUES, WHICH WOULD ALLOW COMPLETE DRAFTING COMITE REPORT TO BE PRESENTED TO LEGAL COMITE AS EARLY AS NOV 6. (ONLY ASYLUM PROVISION AND FINAL ARTICLES HAVE NOT GONE TO DRAFTING COMITE, PENDING ACTION BY LEGAL COMITE. ON ASYLUM, WE HOPEFUL THAT COMPROMISE TRANSMITTED USUN 4395 WILL STICK.)

6. ON FINAL ARTICLES, DELOFF CONVEYED SUBSTANCE OF INSTRUCTIONS CONTAINED STATE 216640 TO UK AND FRG DELS ON NOV 3. WE SUGGESTED THAT UK CONVENE WEO MEETING TO CONSIDER ISSUE. WE ALSO TOLD FEDOROV (USSR) TO TELL KOLESNIK THAT USG COULD NOT ACCEPT "ALL STATES" FORMULA, THAT ABSOLUTE MOST WE COULD AGREE TO WOULD BE SOLUTION ALONG LINES DEPTTEL, AND THAT WE HOPED USSR WOULD BE READY TO AGREE TO THIS AND AVOID THRASHING IT OUT IN LEGAL COMITE.
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